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Paper No. 7

In re application of
Robert W. Fair, et al.
Application No. 09/820,271
Filed: March 27, 2001
For: NETWORK CHAT WITH INTEGRATED BILLING

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on November 28, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A).

As to Item A, all the attorneys given power in the original Declaration/Power of Attorney are not indicated as being withdrawn in the Request for Withdrawal of Attorney. Specifically attorneys Jan P. Weir and Edward F. O'Connor were not indicated as being withdrawn in the Request and therefore still have power of attorney in this application. Also some of the attorneys listed to be withdrawn in the request were not given power of attorney in the declaration. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.



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SNM/cps 12/17/03